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Fundamental Rights, Justice and Truth in South Africa

Justice Sachs


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FACULTY OF LAW
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Fundamental Rights, Justice and Truth in South Africa

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University of Toronto Lectures by Albie Sachs

1. Themes

- A. Human rights in Africa: Getting there in South Africa
- B. Are we truly concerned with the rights of criminals?
 - 1. The Death Penalty
 - 2. The right to a fair trial
- C. The right to be different
 - 1. Equality law
 - 2. The Language Question
 - 3. Customary law
- D. The Truth and Reconciliation Commission
- E. Socio-economic Rights
- F. Overview: Human Right in the twenty-first century

2. Study Material

Contact session 1:

A. Human rights in Africa: Getting there in South Africa

- (i) Albie Sachs “The Colours of Africa” 1-10
- (ii) Albie Sachs “The Origins of Democracy and Human Rights in Africa”
- (iii) Albie Sachs “Ground Rules” July 1997 Red Pepper 12-15
- (iv) Albie Sachs “Constitutional Developments in South Africa” Summer 1996 New York University Journal of International Law and Politics (Volume 28 Number 4) 695-709
- (v) Albie Sachs “The Creation of South Africa’s Constitution” 1997 New York Law School Law Review (Volume XLI Number 2) 665-701
- (vi) Albie Sachs “South Africa’s Unconstitutional Constitution: The Transition from Power to Lawful Power” Fall 1997 Saint Louis University Law Journal (Volume 41 Number 4) 1249-1257

Contact session 2:

B. Are we truly concerned with the rights of criminals?

(1) The Death Penalty

- (i) S v Makwanyane and Another 1995 (6) BCLR 665 (CC)
 - (a) Headnote
 - (b) Judgment by Ackermann J ad paras [152]-[172]
 - (c) Judgment by Didcott J ad paras [173]-[190]
 - (d) Judgment by Kentridge AJ ad paras [191]-[204]
 - (e) Judgment by Kriegler J ad paras [205]-[214]
 - (f) Judgment by Langa J ad paras [215]-[234]
 - (g) Judgment by Madala J ad paras [235]-[260]
 - (h) Judgment by Mahomed J ad paras [261]-[299]
 - (i) Judgment by Mokgoro J ad paras [300]-[317]

- (j) Judgment by O'Regan J ad paras [318]-[344]
- (k) Judgment by Sachs J ad paras [345]-[392]

(2) The right to a fair trial

- (i) S v Zuma 1995 (2) SA 642 (CC); 1995 (4) BCLR 401 (CC) - Reverse onus
 - (a) Headnote
- (ii) S v Mbatha; S v Prinsloo 1996 (2) SA 464 (CC); 1996 (3) BCLR 293 (CC) - Reverse onus
 - (a) Headnote
- (ii) Shabalala v Attorney-General Transvaal 1996 (1) SA 725 (CC); 1995 (12) BCLR 1593 - access to state dockets
 - (a) Headnote
- (iv) Sanderson v Attorney-General Eastern Cape 1998 (2) SA 38 (CC); 1997 (12) BCLR 1675 (CC) - Right to a speedy trial
 - (a) Headnote
- (v) S v Dlamini; S v Dladla; S v Joubert; S v Schietekat 1999 (7) BCLR 771 (CC) - Bail
 - (a) Headnote

Contact session 3:

C. The right to be different

1. Equality law

- (i) City Council of Pretoria v Walker 1998 (2) SA 363 (CC); 1998 (3) BCLR 257 (CC)
 - (a) Headnote
 - (b) Judgment by Sachs J ad paras [100]-[141]
- (ii) National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others 1998 (12) BCLR 1517 (CC)
 - (a) Headnote

- (b) Judgment by Sachs J ad paras [107]-[138]
- (iii) Albie Sachs “Equality Jurisprudence: the Origin of Doctrine in the South African Constitutional Court” The Tenth McDonald Lecture 1-30

Contact session 4:

2. The Language Question

- (i) Albie Sachs “The Language Question in a Rainbow Nation: South African Experience”
- (ii) In re: The School Education Bill of 1995 (Gauteng) 1996 (3) SA 165 (CC); 1996 (4) BCLR 537 (CC)
 - (a) Headnote
 - (b) Judgment by Sachs J ad paras [44]-[92]

3. Customary law

- (i) Albie Sachs “Towards the Liberation and Revitalisation of Customary Law” 1-22

Contact session 5:

D. The Truth and Reconciliation Commission

- (i) Albie Sachs Fourth DT Lakdawala Memorial Lecture delivered on the 18th of December 1998 in New Delhi

Contact session 6:

E. Socio-economic Rights

- (i) Soobramoney v Minister of Health, KwaZulu-Natal 1998 (1) SA 765 (CC); 1997 (12) BCLR 1696 (CC)
 - (a) Headnote
 - (b) Judgment of Sachs J ad paras [50]-[59]

Contact session 7:

F. Overview: Human Right in the twenty-first century

- (i) Albie Sachs “Human Rights in the 21st Century: Prospects, Institutions and Process” 1996 Canadian Institute for the Administration of Justice 1-19

